HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27529 OF 2007

Dated:26.12.2007

Between:

M/s Ganesh Constructions,
Represented by Managing Partner,
D. Narsing Rao.

..Petitioner

And

The Additional Commissioner (CT)
Legal, Hyderabad and another.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27529 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the order of the 1st respondent dated 27.11.2007 passed in CCT's Ref.No.LIII (4) 591/2007 rejecting the stay of collection of disputed tax for the assessment year 2003-2004 pending disposal of the appeal before the Sales Tax Appellate Tribunal, as illegal and arbitrary and consequently, to direct the 2nd respondent not to collect the disputed sales tax pending disposal of the appeal before the tribunal.

The main grievance of the petitioner is that aggrieved by the order passed by the Deputy Commissioner (CT) Rural Division, Hyderabad, the petitioner preferred an appeal before the Sales Tax Appellate Tribunal. An application seeking stay of collection of disputes taxes pending disposal of the appeal was also filed before the Additional Commissioner-1st respondent. But the said application was rejected. Having aggrieved by the same, the present writ petition has been filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the appeal as to the assessment order is pending before the Sales Tax Appellate Tribunal and at this juncture, if the relief of stay is not

entertained and if the recovery is effected, the very purpose of filing the appeal would be defeated.

In the facts and circumstances of the case and in view of the fact that the appeal is pending before the Sales tax Appellate Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of recovery of the disputed tax pending disposal of the appeal before the Tribunal, on condition of the petitioner depositing 50% of the disputed tax, within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 26th December, 2007

Note:
Issue C.C. by Monday.
(BO)
Nn.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

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(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

26/12/2007